IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

CRP.No. 365 of 2006()

AGAINST THE ORDER DATED 12/12/2005 IN EP 1677/03 IN OS.1456/2003 of PRL.MUNSIFF'S COURT, THRISSUR

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REVN. PETITIONER: 2ND RESPONDENT – 2ND JUDGMENT-DEBTOR

SHAJU, S/O. CHULLIPARAMBIL VASU,
ERAVU DESOM, ARIMBOOR VILLAGE,
THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: PETITIONER & RESPONDENTS 1 & 3/DECREE-HOLDER & JUDGMENT DEBTORS 1 AND 3

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1. THE SUBERBEN CHIT FUNDS (P) LTD.,
THRISSUR.

2. ANILKUMAR, S/O. NELLANKARA RAPHEL,
VILAKUMADAM DESOM, VELUTHOOR VILLAGE,
THRISSUR TALUK.

3. ALICE ANIL, W/O. ANILKUMAR,
VILAKUMADAM DESOM, VELUTHOOR VILLAGE,
THRISSUR TALUK.

R1 BY ADV. SRI.R.S.KALKURA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

I.A.NO.1587/06 IN CRP.NO.365/06

DISMISSED

18.8.2007 SD/-PIUS C.KURIAKOSE, JUDGE

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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C.R.P.No.365 OF 2006

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DATED THIS THE 18th AUGUST, 2007

O R D E R

There is no representation for the petitioner who was the 2nd judgment-debtor in a proceeding for execution of a money decree by arrest and detention. Under the impugned order the execution court, after conducting an enquiry under Rule 40 of Order XXI C.P.C. in which both sides adduced evidence, found that the petitioner was willfully negligent in the matter of making payment despite sufficient means to pay off the decree-debt.

2. I do not find any jurisdictional infirmity vitiating the impugned order. I find that this Court became inclined to admit this C.R.P. and grant stay only on condition that the petitioner pays a sum of Rs.30,000/- towards the decree-debt within two months. Subsequently, upon application submitted by the petitioner, time for payment was enlarged. But even during the enlarged time payment was not made and ultimately this Court clarified that the order of stay stands vacated. In all probability, the impugned order has been implemented and in that view the C.R.P. has become infructuous. At any rate, in the absence of the petitioner, the C.R.P. will stand dismissed only for default.

tgl **(PIUS C.KURIAKOSE, JUDGE)**